

§ 651. Tributaries of Mississippi River below Cairo; levee and bank protection

The jurisdiction of the Mississippi River Commission is extended, for the purposes of levee protection and bank protection, to the tributaries and outlets of the Mississippi River between Cairo, Illinois, and the Head of the Passes, in so far as these tributaries and outlets are affected by the flood waters of the Mississippi River.

(Sept. 22, 1922, ch. 427, § 13, 42 Stat. 1047.)

CODIFICATION

Section is from the Rivers and Harbors Appropriation Act for the year 1922.

§ 652. Upper Mississippi River Management

(a) Short title; Congressional declaration of intent

(1) This section may be cited as the “Upper Mississippi River Management Act of 1986”.

(2) To ensure the coordinated development and enhancement of the Upper Mississippi River system, it is hereby declared to be the intent of Congress to recognize that system as a nationally significant ecosystem and a nationally significant commercial navigation system. Congress further recognizes that the system provides a diversity of opportunities and experiences. The system shall be administered and regulated in recognition of its several purposes.

(b) Definitions

For purposes of this section—

(1) the terms “Upper Mississippi River system” and “system” mean those river reaches having commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois;

(2) the term “Master Plan” means the comprehensive master plan for the management of the Upper Mississippi River system, dated January 1, 1982, prepared by the Upper Mississippi River Basin Commission and submitted to Congress pursuant to Public Law 95-502;

(3) the term “GREAT I, GREAT II, and GRRM studies” means the studies entitled “GREAT Environmental Action Team—GREAT I—A Study of the Upper Mississippi River”, dated September 1980, “GREAT River Environmental Action Team—GREAT II—A Study of the Upper Mississippi River”, dated December 1980, and “GREAT River Resource Management Study”, dated September 1982; and

(4) the term “Upper Mississippi River Basin Association” means an association of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, formed for the purposes of cooperative effort and united assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River System.

(c) Congressional approval of Master Plan

(1) Congress hereby approves the Master Plan as a guide for future water policy on the Upper

Mississippi River system. Such approval shall not constitute authorization of any recommendation contained in the Master Plan.

(2) Omitted.

(d) Cooperative effort and mutual assistance among States

(1) The consent of the Congress is hereby given to the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, or any two or more of such States, to enter into negotiations for agreements, not in conflict with any law of the United States, for cooperative effort and mutual assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River system, and to establish such agencies, joint or otherwise, or designate an existing multi-State entity, as they may deem desirable for making effective such agreements. To the extent required by Article I, section 10 of the Constitution, such agreements shall become final only after ratification by an Act of Congress.

(2) The Secretary is authorized to enter into cooperative agreements with the Upper Mississippi River Basin Association or any other agency established under paragraph (1) of this subsection to promote and facilitate active State government participation in the river system management, development, and protection.

(3) For the purpose of ensuring the coordinated planning and implementation of programs authorized in subsections (e) and (h)(2) of this section, the Secretary shall enter into an inter-agency agreement with the Secretary of the Interior to provide for the direct participation of, and transfer of funds to, the Fish and Wildlife Service and any other agency or bureau of the Department of the Interior for the planning, design, implementation, and evaluation of such programs.

(4) The Upper Mississippi River Basin Association or any other agency established under paragraph (1) of this subsection is hereby designated by Congress as the caretaker of the master plan. Any changes to the master plan recommended by the Secretary shall be submitted to such association or agency for review. Such association or agency may make such comments with respect to such recommendations and offer other recommended changes to the master plan as such association or agency deems appropriate and shall transmit such comments and other recommended changes to the Secretary. The Secretary shall transmit such recommendations along with the comments and other recommended changes of such association or agency to the Congress for approval within 90 days of the receipt of such comments or recommended changes.

(e) Program authority

(1) The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, is authorized to undertake, as identified in the master plan—

(A) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement;

(B) implementation of a long-term resource monitoring program; and

(C) implementation of a computerized inventory and analysis system.

(2) Each program referred to in paragraph (1) shall be carried out for 15 years. Before the last day of such 15-year period, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, shall conduct an evaluation of such programs and submit a report on the results of such evaluation to Congress. Such evaluation shall determine each such program's effectiveness, strengths, and weaknesses and contain recommendations for the modification and continuance or termination of such program.

(3) For purposes of carrying out paragraph (1)(A) of this subsection, there is authorized to be appropriated to the Secretary not to exceed \$8,200,000 for the first fiscal year beginning after November 17, 1986, not to exceed \$12,400,000 for the second fiscal year beginning after November 17, 1986, and not to exceed \$13,000,000 per fiscal year for each of the succeeding 13 fiscal years.

(4) For purposes of carrying out paragraph (1)(B) of this subsection, there is authorized to be appropriated to the Secretary not to exceed \$7,680,000 for the first fiscal year beginning after November 17, 1986, and not to exceed \$5,080,000 per fiscal year for each of the succeeding 14 fiscal years.

(5) For purposes of carrying out paragraph (1)(C) of this subsection, there is authorized to be appropriated to the Secretary not to exceed \$40,000 for the first fiscal year beginning after November 17, 1986, not to exceed \$280,000 for the second fiscal year beginning after November 17, 1986, not to exceed \$1,220,000 for the third fiscal year beginning after November 17, 1986, and not to exceed \$875,000 per fiscal year for each of the succeeding 12 fiscal years.

(6) TRANSFER OF AMOUNTS.—

(A) GENERAL RULE.—Subject to subparagraph (B), for each fiscal year beginning after September 30, 1992, the Secretary, in consultation with the Secretary of the Interior, and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer not to exceed 20 percent of the amount appropriated to carry out each of subparagraphs (A), (B), and (C) of paragraph (1) to carry out any other of such subparagraphs.

(B) LIMITATION.—The aggregate amounts obligated in fiscal years 1988 through 2002—

- (i) to carry out paragraph (1)(A) may not exceed \$189,600,000;
- (ii) to carry out paragraph (1)(B) may not exceed \$78,800,000; and
- (iii) to carry out paragraph (1)(C) may not exceed \$12,040,000.

(7)(A) Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 2283(e) of this title; except that the costs of operation and maintenance of projects located on Federal lands or lands owned or operated by a State or local government shall be borne by the Federal, State, or local agency that is respon-

sible for management activities for fish and wildlife on such lands.

(B) Notwithstanding the provisions of subsection (a)(2) of this section, the cost of implementing the activities authorized by paragraphs (1)(B) and (1)(C) of this subsection shall be allocated in accordance with the provisions of section 2283 of this title, as if such activity was required to mitigate losses to fish and wildlife.

(8) None of the funds appropriated pursuant to any authorization contained in this subsection shall be considered to be chargeable to navigation.

(f) Recreational projects authority

(1) The Secretary, in consultation with any agency established under subsection (d)(1) of this section, is authorized to implement a program of recreational projects for the system substantially in accordance with the recommendations of the GREAT I, GREAT II, and GRRM studies and the master plan reports. In addition, the Secretary, in consultation with any such agency, shall, at Federal expense, conduct an assessment of the economic benefits generated by recreational activities in the system. The cost of each such project shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with title I of this Act [33 U.S.C. 2211 et seq.].

(2)(A) For purposes of carrying out the program of recreational projects authorized in paragraph (1) of this subsection, there is authorized to be appropriated to the Secretary not to exceed \$500,000 per fiscal year for each of the first 15 fiscal years beginning after November 17, 1986.

(B) For purposes of carrying out the assessment of the economic benefits of recreational activities as authorized in paragraph (1) of this subsection, there is authorized to be appropriated to the Secretary not to exceed \$300,000 per fiscal year for the first and second fiscal years beginning after the computerized inventory and analysis system implemented pursuant to subsection (e)(1)(C) of this section is fully functional and \$150,000 for the third such fiscal year.

(g) Increases in lock capacity

The Secretary shall, in his budget request, identify those measures developed by the Secretary, in consultation with the Secretary of Transportation and any agency established under subsection (d)(1) of this section, to be undertaken to increase the capacity of specific locks throughout the system by employing non-structural measures and making minor structural improvements.

(h) Monitoring of traffic movements

(1) The Secretary, in consultation with any agency established under subsection (d)(1) of this section, shall monitor traffic movements on the system for the purpose of verifying lock capacity, updating traffic projections, and refining the economic evaluation so as to verify the need for future capacity expansion of the system.

(2) The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, shall determine the need for river rehabilitation

and environmental enhancement and protection based on the condition of the environment, project developments, and projected environmental impacts from implementing any proposals resulting from recommendations made under subsection (g) of this section and paragraph (1) of this subsection.

(3) There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subsection.

(i) Disposal of dredged material

(1) The Secretary shall, as he determines feasible, dispose of dredged material from the system pursuant to the recommendations of the GREAT I, GREAT II, and GRRM studies.

(2) The Secretary shall establish and request appropriate Federal funding for a program to facilitate productive uses of dredged material. The Secretary shall work with the States which have, within their boundaries, any part of the system to identify potential users of dredged material.

(j) Construction of second lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri

The Secretary is authorized to provide for the engineering, design, and construction of a second lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri, at a total cost of \$220,000,000, with a first Federal cost of \$220,000,000. Such second lock shall be one hundred and ten feet by six hundred feet and shall be constructed at or in the vicinity of the location of the replacement lock authorized by section 102 of Public Law 95-502. Section 2212 of this title shall apply to the project authorized by this subsection.

(Pub. L. 99-662, title XI, §1103, Nov. 17, 1986, 100 Stat. 4225; Pub. L. 101-640, title IV, §405, Nov. 28, 1990, 104 Stat. 4646; Pub. L. 102-580, title I, §107, Oct. 31, 1992, 106 Stat. 4815.)

REFERENCES IN TEXT

Public Law 95-502, referred to in subsecs. (b)(2) and (j), is Pub. L. 95-502, Oct. 21, 1978, 92 Stat. 1693, as amended. Section 102 of Pub. L. 95-502 is not classified to the Code. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsec. (f)(1), is Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4082, as amended, known as the Water Resources Development Act of 1986. Title I of this Act is classified generally to subchapter I (§2211 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

CODIFICATION

Subsec. (c)(2) of this section amended section 101 of Pub. L. 95-502, which is set out as a note under section 1962b-3 of Title 42, The Public Health and Welfare.

AMENDMENTS

1992—Subsec. (e)(2). Pub. L. 102-580, §107(a)(1), which directed the substitution of “15” for “ten” each place it appears, could not be executed because “ten” did not appear subsequent to amendment by Pub. L. 101-640, §405(1). See 1990 Amendment note below.

Subsec. (e)(6). Pub. L. 102-580, §107(a)(3), added par. (6). Former par. (6) redesignated (7).

Subsec. (e)(7). Pub. L. 102-580, §107(a)(2), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (e)(7)(A). Pub. L. 102-580, §107(b), added subpar. (A) and struck out former subpar. (A) which read

as follows: “Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 2283 of this title.”

Subsec. (e)(8). Pub. L. 102-580, §107(a)(2), redesignated par. (7) as (8).

1990—Subsec. (e)(2). Pub. L. 101-640, §405(1), substituted “15” for “ten” in two places.

Subsec. (e)(3). Pub. L. 101-640, §405(2), substituted “13” for “eight”.

Subsec. (e)(4). Pub. L. 101-640, §405(3), substituted “14” for “nine”.

Subsec. (e)(5). Pub. L. 101-640, §405(4), substituted “12” for “seven”.

Subsec. (f)(2)(A). Pub. L. 101-640, §405(5), substituted “15” for “ten”.

DEFINITIONS

Secretary means the Secretary of the Army, see section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2212 of this title.

§ 653. Extension of jurisdiction of Mississippi River Commission

The jurisdiction of the Mississippi River Commission (established by the Act of June 29, 1879¹ (33 U.S.C. 641)) is extended to include—

(1) Terrebonne Parish, Louisiana; and

(2) the area bounded by the East Atchafalaya Basin Protection Levee, the Mississippi River Levee, and Bayou Lafourche and extending from Morganza, Louisiana, to the Gulf of Mexico, insofar as such area is affected by the flood waters of the Mississippi River.

(Pub. L. 102-580, title III, §301, Oct. 31, 1992, 106 Stat. 4838.)

REFERENCES IN TEXT

Act of June 29, 1879 (33 U.S.C. 641), referred to in text, probably means the act of June 28, 1879, ch. 43, 21 Stat. 37, which enacted sections 641 to 644, 646, and 647 of this title.

§ 653a. Extension of jurisdiction of Mississippi River Commission

The jurisdiction of the Mississippi River Commission, established by section 641 of this title, is extended to include—

(1) all of the area between the eastern side of the Bayou Lafourche Ridge from Donaldsonville, Louisiana, to the Gulf of Mexico and the west guide levee of the Mississippi River from Donaldsonville, Louisiana, to the Gulf of Mexico;

(2) Alexander County, Illinois; and

(3) the area in the State of Illinois from the confluence of the Mississippi and Ohio Rivers northward to the vicinity of Mississippi River mile 39.5, including the Len Small Drainage and Levee District, insofar as such area is affected by the flood waters of the Mississippi River.

(Pub. L. 104-303, title V, §517, Oct. 12, 1996, 110 Stat. 3764.)

¹ See References in Text note below.